

## **A. Employees Under Reorganization**

### **1. Classified Employees**

Any reorganization of a school district shall not affect the rights of persons employed in positions not requiring certification to retain the status, leaves, and other benefits that they would have enjoyed, had the reorganization not occurred. (EC 35556, 45121) In a reorganization, the following general rules apply:

- a. An employee of an original district that is included in a new district shall become an employee of the new district. (EC 35556[a])
- b. Employees of a district regularly assigned to the territory being lost to another district shall become employees of the new district. Those whose assignments pertain to that territory, but who are not actually sited there, may elect to either remain with the original district or become employees of the new district. (EC 35556[b])
- c. If a district's territory is completely absorbed into two or more districts, regular employees will become employees of the district acquiring the respective territory. Employees not assigned to specific territory within the original district will join the district of their choice. (EC 35556[c])
- d. Employees regularly assigned to a particular school shall be employees of the district in which the school is located. (EC 35556[d])
- e. In a new unified district, noncertificated employees shall continue in employment for not less than two years. (EC 45121)
- f. As used in this section and in the subsequent section on certificated employees, "the school or other place in which any such employee is employed" and all references thereto, includes but is not limited to, the school services or school program that as a result of any reorganization of a school district will be provided by another district, regardless of whether any particular building or buildings in which such schoolwork or school program was conducted is physically located in the new district, and regardless of whether any new district resulting from such reorganization elects to provide for the education of its pupils by contracting with another school district until such time as the new district constructs its own facilities.
- g. Permanent and probationary employees of districts, or employees at schools that become absorbed into unified districts, do not have the option of electing to remain with the original district in those circumstances cited above. (EC 44035, 44803)
- h. Except as stipulated earlier, nothing in the above section shall deprive the governing board of the acquiring district from making reasonable assignments of duties.

## 2. Certificated Employees

The reorganization of school districts shall not affect the classification of certificated employees already employed by any affected school district. (EC 35555) The new district shall offer employment as follows:

- a. Permanent employees assigned to a building located within the new district shall remain at the school or facility to which they had been previously assigned, unless they elect to remain with the original district. (EC 35555, 44035)
- b. Probationary employees assigned to a building located within the new district shall be employed by the new district unless the probationary employee is terminated by such a district prior to May 15. If employment continues, the probationary status shall remain unchanged. (EC 44803, 44949, 44955)
- c. Permanent employees must select the district in which they choose to work before February 1 of the year in which the reorganization becomes effective for all purposes. The request may be made to either the board of the new district or the board of the original district. (EC 35555)
- d. If permanent employees elect to stay with the remainder of the original district in such numbers that the district does not have sufficient positions to accommodate all the employees, then the surplus employees may be dismissed in reverse order of their seniority. (EC 44955)

Should the anticipated attrition of staff in the original district be approximately offset by the decline in enrollment in that district, including the loss of transferred students, this aspect may be used to diminish the number of offers of employment extended by the receiving district. (EC 44955)

## 3. Superintendent's Contract or a New School District's Legal Obligation to Former Superintendent

One issue not fully addressed has been whether a superintendent's contract with an old school district involved in a unification becomes a legal obligation of the newly unified school district. Although there has not been a current definitive ruling on this issue, it appears likely that a unified district is not legally obligated to honor contract(s) with a former superintendent(s).

In *Milsap v. San Pasqual Union School District* (1965), 232 Cal. App. 2d 333, the appellate court examined then existing law to determine that a newly unified district was not obligated to honor a contract with a superintendent of one of the old school districts absorbed in the unification. The court reviewed various pertinent sections of the Education Code and determined that although there were general provisions requiring a newly unified school district to comply with the obligations of a former district(s), such as contracts with classified employees, there was no specific provision requiring the new district to honor a contract with a former superintendent(s). The appellate court therefore concluded it was the Legislature's intent not to impose the obligation of employment of a district superintendent on a

newly unified school district. *Milsap v. San Pasqual Union School District (supra)*, 232 Cal. App.2d at 335-36.

Similarly under current laws the Education Code specifically provides for continuance of employment contracts with classified and certificated employees but does not extend such contracts for district superintendents. It could thus be concluded that a new district has no obligation to honor an employment contract with any former superintendent.

#### 4. Salaries After Reorganization

The power to determine employees' salaries resides with the governing board of a school district. The board must determine the salary policy of a newly created district. (EC 45022, 45160)

##### a. Nonunified District

The Education Code provides for the creation of a revenue limit that may equalize the differences between high salaried districts and lower salaried districts. (EC 35730 et seq.) The new board may or may not adopt a salary schedule equal to or better than the best salary schedule of the original districts. All employees are entitled to transfer to the new district the benefits they accrued prior to reorganization. (EC 44976, 44984)

##### b. Unified District

The board of a new unified district may or may not adopt a salary schedule equal to or better than the best salary schedule of the original districts. The board has the power to increase or decrease salaries, and the new board could establish a lower salary schedule for teachers, thus decreasing their salaries. However, all noncertificated personnel must receive, for a period of two years, salaries and benefits equal to those existing at the time of the election. (EC 45022, 45121, 45160) In summary, a new unified school board may reduce certificated employees' salaries but may not reduce noncertificated employees' salaries.

#### 5. Adoption of Merit System

If the reorganized district contains all or part of a former district for which a merit system had been adopted, that merit system must be adopted by the reorganized district if the number of employees from the merit system district equals or exceeds the number of classified employees of the nonmerit system, acquiring district. If this condition is not met, the reorganized district shall adopt the merit system only if an election for this purpose is requested and the adoption is approved at the election by the classified employees of the reorganized district. (EC 45120)

#### 6. Role of Public Employment Relations Board

The PERB has jurisdiction over employer-employee relations matters affecting all school districts. School districts and exclusive bargaining representatives for employees should be advised to contact PERB to determine whether employee unions

in the former district(s) may continue to represent the new district's employees and to determine the future validity of existing collective bargaining agreements.

Statutory provisions relating to the PERB's formation, its powers and duties, and procedures for handling charges of unfair labor practices are found in Government Code sections 3541–3541.5.

## **B. Disposition of Property, Funds, Records, and Obligations**

### **1. Property**

The allocation of various properties is often made part of the transfer agreement, having been specified either by the petitioners or the county committee. When terms and conditions of transfer are not specified, real property and the personal property and fixtures normally situated at the site shall belong to the district in which the real property is located. All the other property, funds, and obligations (except bonded indebtedness) shall be divided pro rata among the districts in proportion to the assessed value of the transferred territory within each district unless otherwise stipulated in the plans and recommendations of the county committee. Other bases for distributing properties that may be used are revenue limit, a.d.a., value and location of property, or any other equitable means. (EC 35560, 35736)

### **2. Funds from the Sale of Bonds**

Funds from the sale of previously issued school bonds may be used for the acquisition, construction, or improvement of only the school property that was a part of the former district or for such use in that same district. However, if the new district accepts and assumes the former district's bonded indebtedness, the funds may be used anywhere in the new district and for the same voted purpose. (EC 35561)

### **3. Records**

In the case of a district that has been completely absorbed by two or more districts on the same effective date, the required records shall be deposited with the district within which the office lies. Thereafter, employee records will be sent to the employees' respective employers, or last employers. Pupil records are sent to the school district of the respective student's last enrollment. (EC 35562)

In this same case, the county superintendent of schools who has jurisdiction over the original district shall assume all responsibility for the following (EC 35563):

- a. Completing all records and reports
- b. Paying all outstanding obligations, except those resulting from contracts to be assumed by the new districts
- c. Preparing for proper filing of all records required to be kept permanently
- d. Distributing records of employees, students, and others, as required by law
- e. Employing an auditor as required by Education Code Section 41020

f. Discharging such other functions as shall be deemed necessary

In fulfilling the above responsibilities, the county superintendent may request help from the districts involved, and they shall release such employees to the county superintendent as are needed to carry out these responsibilities. Salaries and expenses of these employees shall be paid from accumulated funds of the dissolved district. (EC 35563)

#### 4. Student Body Property, Funds, and Obligations

If a reorganization occurs so that a portion of the students are no longer residing in the original district, then the property, funds, and obligations of the former student body shall be divided among school districts by the county committee, providing that no share will exceed the proportion of students leaving to those enrolled. Such assets/liabilities shall be transferred to the school where the respective students are enrolled. Funds from devises, bequests, or gifts shall not be divided and will remain with the school where originally received. (EC 35564)

#### 5. Dispute Over Disposition of Funds

A board of arbitrators may be appointed to resolve any dispute over disposition of funds or property. The board shall consist of one member appointed by each district and one appointed by the county superintendent of schools having jurisdiction. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written finding and determination of the majority of the board of arbitrators is final, binding, and nonappealable. (EC 35565)

#### 6. Property Tax Revenue

Section 99 of the Revenue Taxation Code provides for the reallocation of the property tax revenue when jurisdictional changes occur in the taxing agencies. Subdivision (b) of that section requires that the county assessor provide to the county auditor, within 30 days of receiving notification of the change of jurisdictions, a report that identifies the assessed valuations for the territory. The county auditor then estimates the amount of property tax revenue that is generated in the territory whose jurisdiction is changed. The auditor notifies the governing boards involved of the property tax revenue generated by the reorganized territory.

Subdivision (h) provides that the affected governing boards shall negotiate the exchange in tax revenue between the districts, and, if they are unable to do so within 60 days after the effective date of the change, the county board of education shall determine the amount of property tax revenue to be exchanged. If the affected districts are in more than one county, the State Board of Education decides the property tax revenue exchange.

In most cases, all of the tax revenue from the territory being reorganized would be transferred to the district receiving that territory. However, it is clear from Section 99 that the tax revenues to be transferred are subject to negotiation. This exchange of tax revenue could also be set forth in the petition to reorganize districts.

## 7. State-Aided Districts

When a state-aided district that received state housing aid is annexed to another district or by change of boundaries or otherwise is included in whole or in part in another district or districts, the superintendent of schools shall, within 10 days after the effective date of such change, file a certificate with the State Allocation Board in such form as the board shall prescribe. (EC 16166)

Whenever a state-aided district is included in whole in another district, the acquiring district shall succeed to and be vested with, all responsibilities of the state-aided district with respect to the apportionment and the property acquired. (EC 16157)

Whenever territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district, then (EC 16163):

- a. If the acquiring district is a state-aided district, repayments after reorganization will be determined based on the new assessed valuations of the districts.
- b. If the acquiring district is not a state-aided district, the State Controller shall determine the percentage relationship, at the time of withdrawal, between:
  - i. The assessed valuation of the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment;

*and*

  - ii. The current assessed valuation of the state-aided district at the time of withdrawal.
- c. If the percentage calculated under (b) above is less than 10 percent, the liability for repayment of the state aid obligation shall remain with the state-aided district.
- d. If the percentage calculated under (b) above is more than 10 percent, the liability for repayment shall be apportioned between the state-aided district and the acquiring district in relation to the percentage calculated.

Whenever less than all of a state-aided district is included in another district and a state-aided facility is located in territory transferred, the Director of General Services shall determine what portion of the total apportionment to the original district was expended for property acquired by the acquiring district. The acquiring district shall become liable for the repayment to the state of that portion of the annual repayments determined as the greatest of the amounts of (EC 16159):

- i. That portion of the apportionment which the Director of General Services has determined was expended for property acquired by the acquiring district;

*or*

- ii. The percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is to the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer.

## 8. Distribution Process

While the Education Code specifies the details of the division of property, it does not specifically address the method under which this distribution shall take place. Where a sizable amount of property is involved, the county committee may want to ensure that an equitable process for distribution, agreed upon by all districts involved, will be established before the proposal is submitted to the State Board of Education or the electorate. (EC 35705.5, 35736)

The following illustrates methods that may be utilized by the county committee to ensure equitable distribution of personal property. They are suggestions only, and each committee should evaluate the process and make appropriate adjustments to fit their local conditions.

- a. Personal property may be appraised for all purposes at current market value as of June 30 of the school year prior to the date that the new district becomes effective. This may be done by a certified appraisal firm selected by the county superintendent from a list submitted by each of the involved districts.
- b. All personal property shall be listed on an inventory by category, specifying the current market value.
- c. The total value of the personal property shall be distributed on the basis of the ratio that the assessed valuation of each proposed district bears to the total assessed valuation of the area. (EC 35560, 35736)
- d. The districts shall draw lots to determine which shall have first choice and which shall have second choice. The order shall be rotated after each list of 10 items is selected.
- e. Items shall be made available in lots of 10. The person whose turn it is to select first may purchase his or her share (ratio) of the 10 items or may elect to decline to purchase any of the items in that lot of 10 items. This process shall continue until all property has been distributed and all money credits expended.
- f. Should one district decline to select a sufficient number of times so that items are remaining at the time when the other district(s) has expended its credit, the remaining district shall receive all items remaining and the distribution shall be deemed completed.
- g. The necessary expenses and compensation of the appraisal shall be prorated and paid by each district on the basis of the ratio of assessed valuation. Other bases for prorating may be utilized. (EC 35736)

## **C. Bonded Indebtedness**

### **1. Limitation on Reorganization**

No territory shall be taken from any school district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of a district from which the territory was taken so that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for each level maintained, on the date the reorganization is effective. (EC 35572)

### **2. Merger**

In case of a merger, the single resulting school district becomes liable for all outstanding bonded indebtedness of those districts merged. (EC 35573)

### **3. Annexing Territory With No Property or Buildings**

Annexed territory with no school property or buildings drops all liability to the former district, but shall automatically assume a proportionate share of the new school district's bonded indebtedness. (EC 35575)

### **4. Annexing Territory With School Property and/or Buildings**

The receiving school district takes possession of property and/or buildings on the day of annexation. The transferred territory drops all liability to the former district and assumes a proportionate share of the new school district's bonded indebtedness.

### **5. Payment for Loss of Assessed Value**

When territory containing real property is transferred, the acquiring district shall take possession of the real property and provide compensation as specified by the county committee or the *greater* of the following:

- a. That ratio of the losing original district's bonded indebtedness that equates to the transferring territory's proportion of the losing original district's assessed value

*or*

- b. That portion of the original district's assessed value that was incurred for property acquisition and/or improvement within the transferring territory. (EC 35576[b], 35738)

### **6. Computation of Annual Tax Rate**

The county board of supervisors shall compute the appropriate annual tax rate for bond interest and redemption. The county board shall also compute tax rates for both the annual charge and the use charge for county school service fund programs. (EC 35576)



## 7. Authorized but Unsold Bonds

In the case of a school district that is completely divided into two or more other districts, the county board of supervisors shall certify that prior authorization to issue bonds be divided in the same proportion as the transferred territory's assessed valuation was to its original district's assessed valuation. Such bonds, if issued, are the new school district's liability (when applying Chapter 8 of State Building Aid Law of 1952). (EC 35577)

When one district is annexed as a whole into another, its unsold bonds may be issued by the board of supervisors on behalf of the new district, providing that such funds be expended only for the purpose(s) for which the bonds were originally authorized. (EC 35578)

If the board of supervisors chooses to issue the bonds in the names of the old school districts, the bonds still remain the liability of the new districts when the new district's bonding capacity is computed and/or when aid is applied for under the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10. (EC 35579)

8. Mello-Roos Community Facility Districts (CFDs) are voter-created public districts operated under the control of a board of directors. Often the CFD is created to provide infrastructure to a school district. Special taxes are levied on real property in the CFD to pay for school facilities. The school board is then designated as the board of directors of the CFD. This can become a problem in the event of a reorganization of territory that includes the CFD. For example, a high school district board may operate as the board of directors of a CFD within its boundaries. When a unified school district is formed along these same boundaries, legal steps must be taken to change the board of directors of the CFD from the high school district board to a newly formed unified school district board. Although it is clearly better to anticipate this possibility and provide for a board of directors that can be changed in the CFD's organizational and bond documents, it must be kept in mind that there is a covenant between the board of directors of the CFD and bond holders regarding the governance of the CFD, which must be honored. Bond counsel must be consulted to make any necessary changes to the conditions prescribed in the CFD's organization and bond documents. In some cases, legislation may be necessary.

## 9. School Facilities Fees

Statutes governing the collection and expenditure of school facilities fees require that those fees be expended for the purpose for which they were collected: providing the school facilities needed and having students come from the development on which the fees were assessed. This means that unexpended school facilities fees must be allocated and distributed on the bases of their sources.

## D. Revenue Limit of New District

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### INTRODUCTION

In these financially difficult times, many school administrators are looking at every possible option for reducing expenditures and increasing revenues. One option that holds the potential of accomplishing both goals—reducing duplicative expenditures and increasing state aid—is school district consolidation. By consolidating school districts, it is often possible to reduce expenditures through the elimination of duplicative services. Also, state law allows for an increase in the total revenue limits for a district that consolidates in recognition of the need to have a common salary and benefit schedule for all of the employees of the new district.

### OVERVIEW OF REVENUE LIMIT CHANGES

When districts reorganize—whether through unification, unionization, annexation, transfer of territory or transfer of a junior high school program<sup>1</sup>—the revenue limit for the newly reorganized district is calculated in two steps: (1) the blending of revenue limits; and, (2) the calculation of an adjustment for salary and benefit differentials. The blending of the revenue limits of the former component districts uses a weighted average approach. This calculation is revenue neutral and does not yield any increased funding to the new district.

It is only the adjustment for salary and benefit differentials that yields new revenues. The calculation of this adjustment starts with the determination of the average cost of certificated salaries and benefits per full-time equivalent employee (FTE) and then identifies the cost of increasing the certificated employees in the component districts with low average costs up to the level of the district with the highest average costs. A second, parallel calculation is performed for classified employees. The sum of the additional costs calculated to raise average salaries and benefits to the highest average for both certificated and classified employees, divided by the total ADA for the newly reorganized district, is added to the new district’s base revenue limit.

This revenue limit increase for salaries and benefits is the only increased funding for a newly reorganized district. Special education funding for a newly reorganized district is calculated on a weighted-average basis that is revenue neutral. And all other state categorical funding for a newly reorganized district is also calculated on a revenue neutral basis. For those categorical programs that are funded on a per-ADA basis, such as K–8 instructional materials, the funding for a newly reorganized district is based upon the sum of the ADA from its component districts. And for those categorical programs where funding in one year is based on the funding in the prior year, such as state aid for transportation, the funding for a newly reorganized district is simply based on the sum of the funding for the component districts.

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<sup>1</sup> Unification is the formation of a new K–12 district from elementary and high school districts, while unionization is the formation of a new district from districts of the same level—elementary, high school or unified. Annexation is when one district is merged into another district that continues to operate.

## Revenue Limit Increase Versus Cost Increase

It is important to understand that the calculation of the revenue limit increase for salaries and benefits is not directly related to the actual cost increase that a newly reorganized district may incur when moving to a common salary and benefit schedule. . . . [As noted above,] the additional revenue limit funding is based on a calculation involving the average costs of salaries and benefits per certificated or classified FTE, not on the cost of shifting employees to the highest salary and benefit schedule.

To make this point clear, consider two examples involving the unification of two school districts. As a first example, if both districts had identical salary and benefit schedules, but one district had more senior staff than the other, the district with the senior staff would have a higher average cost for salaries and benefits per FTE. Even though there would be no cost of moving to a common salary schedule, the revenue limit calculation would, nevertheless, result in additional funding because of the difference in average costs.

As a second example, suppose that these two districts had different salary and benefit schedules, but where the district with the lower schedule had a higher level of seniority and its average cost per FTE turned out to be exactly the same as the other district. Although there would be a cost of moving the lower paid employees to the higher salary schedule, the revenue limit calculation would result in no additional funding for salaries and benefits, simply because the average cost per FTE was identical.

Although these two examples highlight the inconsistency between the revenue limit calculation and the cost of moving to a common salary and benefit schedule, as a practical matter the additional revenue limit funding is usually close to the amount needed to move all employees to the highest schedule in most district reorganizations. Also, it should be noted that a reorganized district may negotiate any salary schedule and benefit package, and there is no legal requirement that the newly reorganized district use the highest salary schedule of its component districts.

Another point is that the calculation of the salary and benefit adjustments is based solely on the costs for the component districts two years prior to the effective date of the reorganization. For example, for a reorganization that will become effective in 1996-97, the calculations shall be based upon salary and benefit costs per FTE in 1994-95. The use of data two years prior to the effective date of the reorganization is intended to use “known” data and data that cannot be manipulated by making salary or benefit changes just before the effective date of the reorganization.

It is important to note that no adjustment is made to a district’s revenue limit in recognition that some or all of the certificated employees for a newly reorganized district are considered to be new employees, and therefore subject to the 1.45% Medicare tax. By contrast, the data used to calculate the average salaries and benefits of the component districts include Medicare costs only for those certificated employees hired on or after April 1, 1986.

## Blended Base Revenue Limit

The first step in calculating the base revenue limit for the newly reorganized district is the calculation of the blended base revenue limit. In simplest terms, this calculation is equal to the total base revenue limit for all the component districts divided by the total ADA for the newly reorganized district (see Example 1).

This weighted average calculation is revenue neutral since it yields the same total base revenue limit as for the component districts. That is, as shown in the calculation at the end of Example 1, the blended base revenue limit of \$3,594.74 per ADA times the 3,800 ADA of the newly reorganized district yields the same total revenue limit as the sum of the revenue limits for the component districts (to within a few dollar roundoff error).

The steps used in this blending calculation are as follows:

- Step 1. For each district that is wholly or partially included in the newly reorganized district, calculate the district's total base revenue limit per ADA. With reference to 1994-95 Form K-12, this first step is equal to the total base revenue limit in Line E-1 (EDP034) divided by the total revenue limit ADA in Line C-4 (EDP033). For most districts, this amount will be the same as the district's base revenue limit (Line B, EDP024). But for those districts with very high base revenue limits and which, therefore, have growth ADA funded at 105% of the statewide average base revenue limit (i.e., an amount less than the district's base revenue limit), the resultant amount will be lower than the district's base revenue limit. Note that the ADA used in this calculation is the revenue limit ADA—that is, the greater of the current or prior year ADA—excluding any ADA in necessary small schools. Since the ADA in necessary small schools is funded through the necessary small school allowances, and not through a district's base revenue limit, it is appropriate that such ADA be excluded from this calculation.
- Step 2. For each affected district, multiply the amount determined in Step 1 by the number of ADA included in the reorganized school district. If a district is wholly included in the newly reorganized district, then this calculation will be based on the district's revenue limit ADA (i.e., the greater of current or prior year ADA). If only a portion of a district is to be included in the reorganization, the law stipulates that the county superintendent is to make the determination of the number of ADA that will be included in the proposed school district. For instance, in Example 1, only part of the high school district is unifying with three of its feeder elementary districts and the balance of the high school district will continue to exist. As indicated in this example, 1,200 of the high school district's 2,400 ADA will become part of the newly unified district, equal to exactly 50% of the district's ADA.

### EXAMPLE 1. BLENDED BASE REVENUE LIMIT

District	Total Base Revenue Limit (A)	Total Revenue Limit ADA (B)	Total Base Revenue Limit per ADA (C)	Affected ADA (D)	Percent of District in Reorganization (E) = (D)/(B)	Computed Total Base Revenue Limit (F) = (C) * (D)
Elementary District 1	\$3,300,00	1,000	\$3,300.00	1,000	100.00%	\$3,300,000
Elementary District 2	5,100,000	1,500	3,400.00	1,500	100.00%	5,100,000
Elementary District 3	400,000	100	4,000.00	100	100.00%	400,000
High School District	9,720,000	2,400	4,050.00	1,200	50.00%	4,860.000
Totals				3,800		\$13,660,000
<p>Blended Base Revenue Limit per ADA = \$13,660,000 divided by 3,800 ADA = \$3,594.74</p> <p>Check: \$3,594.74 times 3,800 ADA = \$13,660,012 (equals the same amount to within a small roundoff error)</p>						

- Step 3      Add the sum of the amounts determined in Step 2 for each affected school district to obtain the total base revenue limit for the component districts.
- Step 4      Divide the sum determined in Step 3 by the total ADA in the newly reorganized school district. The total ADA used here is equal to the sum of the ADA of the component districts used in Step 2.

The result of Step 4 is the blended base revenue limit per ADA for the newly reorganized district.

### **Salary and Benefit Adjustments**

The second step in computing the revenue limit of the newly reorganized district is the calculation of the adjustments for the salary and benefit differentials. As discussed earlier, this calculation is based solely on the differentials in average costs per FTE, and not on the cost increase that a district may incur in shifting to a common salary and benefit schedule.

The following are steps in calculating the salary and benefit adjustments. This calculation is to be done twice—once for certificated staff and a second time for classified staff.

### **Change in Law Completely Excludes Small Districts**

Up through 1988-89, all component districts were included in the salary and benefit calculations, but only districts with at least 10% of the total employees of the newly reorganized district could be considered to have the highest average salary and benefits per FTE. To understand why small districts are excluded, consider as an example the unification of a high school district with all eight of its feeder elementary districts. If one of its feeder elementary districts was a tiny district with only one teacher/principal who had a very high salary/benefit package, this one district would have the highest average salary and benefits per certificated FTE. To avoid the situation of leveling up all districts to the high average costs of a tiny district, the law specified that any district that did not have at least 10% of the total FTE of the reorganized district was excluded from determination of the highest average (ref. Education Code Section 35735, as it read in 1988).

Then, in 1989, this provision of law was changed to specify that only component districts that contained at least 25% of the total number of certificated and classified employees in the proposed reorganized district may be considered in determining the highest average salary and benefits per FTE (ref. Education Code Section 35735, as amended by AB 198, Chapter 83/1989).

Legislation enacted in 1994 further changed the calculation of the salary and benefit adjustments by completely excluding small districts—those with less than 25% of the total staff in the new district. To be specific, only districts with at least 25% of the certificated full-time equivalent (FTE) employees in the newly reorganized district are now included in the calculation of the adjustment for certificated salaries and benefits, and only those with at least 25% of the classified FTE are included in the calculation of the adjustment for classified salaries and benefits (ref. Education Code Section 35735.1, as added by SB 1537, Chapter 1186/1994). This requirement represents a change in law from the prior statutory provisions that may be significant in some reorganizations.

It is the author's understanding that the statutory changes enacted by SB 1537 were intended to simply clarify prior law, not to change prior law. However, since the changes enacted by SB 1537 codified a new interpretation of law, they do represent a change in this calculation, as indicated in the following example.

Consider again the case of a high school district unifying with all eight of its feeder elementary districts. And suppose also that, except for the one tiny elementary district, the high school district has the highest average salaries and benefits per certificated FTE and per classified FTE.

Since this high school district has about 35% of the total employees of the newly reorganized district, it is eligible for having the highest average cost per certificated and per classified FTE in this calculation. But if the seven “non-tiny” elementary districts are approximately the same size, none of them comprise at least 25% of the employees of the newly reorganized district, and so none of the elementary districts are eligible for inclusion in the calculation of salary and benefits adjustments under the new law. This unification will thus generate zero new dollars for salary and benefit differentials.

Under the prior law, districts without at least 25% of the employees could not be considered to have the highest average costs. But the seven “non-tiny” elementary districts would have been eligible for inclusion in the salary and benefit adjustments, and a significant amount of new revenue would have been calculated for the salary and benefit differentials.

### **Implementing the 25% Threshold**

The calculation of the 25% threshold is straightforward in those cases where entire districts are included in the reorganized district—for example, when a high school district unifies with all of its feeder elementary districts. In this simple case, the calculation involves a comparison of the number of certificated or classified FTE for each component district as a percentage of the total certificated or classified FTE of the reorganized district. Any district that has over 25% or more of the total certificated employees is eligible for the certificated calculation and any district with 25% or more of the classified employees is eligible for the classified calculation.

A more difficult case occurs where only part of a district is included in a district reorganization—for example, when several elementary districts unify with only a portion of a high school district, as in Example 1. In this case, the number of employee FTE used to determine the 25% threshold is based upon the percentage of the district’s ADA that will be included in the reorganized district. For instance, as shown in Example 2, since 50% of the high school district’s ADA will be included in the unification, then 50% of the certificated FTE and 50% of the classified FTE of the high school district are included in these calculations, regardless of the actual number of employees who shift to the newly united district.

### **Average Salaries and Benefits Per FTE**

Once it has been determined which districts are eligible for inclusion in the salary and benefits calculations, the next step is to determine the average costs of all salaries and benefits per FTE for certificated staff and the corresponding amount for classified staff. The components of this calculation are as follows:

- Add all salaries and benefits for certificated or classified employees, including both part-time and full-time employees.
- Divide the total certificated salaries and benefits by the number of certificated FTE and divide the total classified salaries and benefits by the number of classified FTE.

Note that this calculation includes all certificated staff—teachers, counselors, administrators, etc.—in the certificated calculation and all classified staff in the classified calculation.

**EXAMPLE 2 . SALARY AND BENEFIT ADJUSTMENTS AND TOTAL BASE REVENUE LIMIT**

<b>Part A. Calculation for Certificated Salary and Benefits</b>								
<b>District</b>	<b>Total Salaries and Benefits (A)</b>	<b>Certificated FTE (B)</b>	<b>Average Salaries Benefits per FTE (C) = (A)/</b>	<b>Percent of District in Reorganization (D)</b>	<b>Affected FTE (E) = (B)*(D)</b>	<b>25% or More of Total FTE? (need 35.50 or more FTE)</b>	<b>Level Up Target = Highest Average Among Those Above 25% (F)</b>	<b>Cost to Move Those Above 25% to Highest Average (G) = [(F)-(C)]*(E)</b>
Elementary District 1	\$1,530,000	34.00	\$45,000	100.00%	34.00	NO		
Elementary District 2	2,000,000	50.00	40,000	100.00%	50.00	YES	\$55,000	\$750,000
Elementary District 3	120,000	2.00	60,000	100.00%	2.00	NO		
High School District	6,160,000	112.00	55,000	50.00%	56.00	YES	55,000	0
Totals					142.00			\$750,000
<b>Part B. Calculation for Classified Salary and Benefit</b>								
<b>District</b>	<b>Total Salaries and Benefits (A)</b>	<b>Certificated FTE (B)</b>	<b>Average Salaries Benefits per FTE (C) = (A)/</b>	<b>Percent of District in Reorganization (D)</b>	<b>Affected FTE (E) = (B)*(D)</b>	<b>25% or More of Total FTE? (need 35.50 or more FTE)</b>	<b>Level Up Target = Highest Average Among Those Above 25% (F)</b>	<b>Cost to Move Those Above 25% to Highest Average (G) = [(F)-(C)]*(E)</b>
Elementary District 1	\$810,000	30.00	27,000	100.00%	30.00	YES	\$29,000	\$60,000
Elementary District 2	1,160,000	40.00	29,000	100.00%	40.00	YES	29,000	0
Elementary District 3	25,000	1.00	25,000	100.00%	1.00	NO		
High School District	2,100,000	75.00	28,000	50.00%	37.50	YES	29,000	37,500
Totals					108.50			\$97,500



<b>Part C. Total Base Revenue Limit for Newly Unified District</b>	
1. Blended Base Revenue Limit (Example 1)	\$3,594.74
2. Add-on for Certificated and Classified Salaries and Benefits	
a. Certificated Salary and Benefit Amount	\$750,000
b. Classified Salary and Benefit Amount	\$ 97,500
c. Total Salary and Benefit Amount	\$847,500
d. Amount per ADA (i.e. \$847,500 divided by 3,800 ADA) (this amount is 6.20% of blended base revenue limit)	223.03
3. Total Base Revenue Limit	\$3,817.77

## Salary and Benefit Adjustments

The next step is to determine the highest average cost among the eligible component districts—those with 25% or more of the total certificated or classified FTE. And the final step is to calculate the amount needed to raise the staff in the eligible component districts that did not have the highest average cost per FTE up to that highest level. As shown in Part A of Example 2, while Elementary District 3 has the highest average cost, it has far less than 25% of the total staff and so is excluded from the calculation. Of the eligible districts, High School District 1 has the highest average certificated cost per FTE of \$55,000. Elementary District 2, the only other eligible district, has an average cost for certificated staff of only \$40,000. This calculation then involves multiplying this difference, or \$15,000, times the 50 certificated employees in District 2 that will be included in the reorganized district to yield \$450,000.

As shown in Part B of Example 2, the calculation for classified staff is done independently of the calculation for certificated staff. In this case, Elementary Districts 1 and 2 and the High School District all have more than 25% of the total classified staff and so are all included in this calculation. Also note that whereas the High School District had the highest average cost per FTE for certificated staff, Elementary District 2 has the highest average cost per FTE for classified staff.

Part C of Example 2 shows that the total adjustment for certificated and classified salaries and benefits is \$847,500. Dividing this total dollar amount by the 3,800 ADA used in the blending calculation (i.e., including only 1,200 of the 2,400 high school ADA) yields a revenue limit add-on of \$223.03 per ADA for salaries and benefits. Adding this to the blended base revenue limit of \$3,594.74 yields the new base revenue limit for the unified district of \$3,817.77 per ADA.<sup>2</sup>

Under prior law, Elementary District 1 would have been included in this “level up” calculation for certificated staff and Elementary District 3 would have been included in the “level up” calculation for classified staff. For the certificated calculation, this would have added another \$10,000 per FTE times the 34 certificated FTE in Elementary District 1, or \$340,000. And for the classified calculation, this would have added \$4,000 times the 1 classified FTE in Elementary District 3, or \$4,000. The total adjustment for salary and benefits would have been \$1,191,500, equal to \$313.55 per ADA, or \$90.52 per ADA more than under current law.

## 10% Cap and Deficit on Salary and Benefit Adjustments

Statutory law provides that the amount of the add-on for salary and benefits adjustments per ADA cannot exceed 10% of the blended base revenue limit per ADA (ref. Education Code Section 35735.1(a)(4)(A)). Since the computed add-on for salary and benefits in Example 2 is 6.20% of the blended base revenue limit, it is well within this 10% limit. However, it should be kept in mind that this revenue limit add-on is subject to the K–12 revenue limit deficit—11.01% in 1994-95 and possibly higher in future years. For example, if the unification shown in Examples 1 and 2 was effective in 1994-95, the newly unified district’s base revenue limit would include \$223.03 in additional revenues from the salary and benefit adjustments. However, due to the 11.01% revenue limit deficit in 1994-95, the district’s real increase in funding would be only \$198.47 per ADA.

State law specifies that the resultant base revenue limit per unit of ADA for the newly reorganized district cannot exceed the amount set forth in the proposal for reorganization that was approved by the State Board of Education (ref. Education Code Section 35735.1(c)). However,

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<sup>2</sup> As discussed later in this chapter [of *Revenues and Limits: A Guide to School Finance in California*], a newly reorganized district is eligible to receive the full add-on to the base revenue limit for salary and benefit adjustments only if there are suitable facilities for all of its students.

the section goes on to state that the Superintendent of Public Instruction may make technical adjustments to the calculation of the new base revenue limit, “if necessary to cause those apportionments to be consistent with this section,” without further State Board of Education action.

### **Bringing the New Base Revenue Limit Up-to-Date**

Since the calculation of the base revenue limit for the reorganized district is performed using data for the second year prior to the effective date of the reorganization, it is necessary to bring it up to date by adjusting it for:

- The inflation increases that the reorganized district would have received for the fiscal year prior to the reorganization and for the fiscal year of the reorganization; and,
- Any other adjustments to the base revenue limit that the reorganized district would have been eligible to receive had it been reorganized two years earlier. For example, if one or more of the component districts would have been eligible for the Supplemental Grant add-on to the base revenue limit in 1995-96, then this amount would be included in this part of the calculation.

## **OTHER REVENUE LIMIT CHANGES**

### **Non-Growth ADA Reset for Affected Districts**

As discussed earlier in this chapter, the calculation of the blended base revenue limit for districts that reorganize includes the use of 105% of the statewide average base revenue limit, if lower than a district’s own base revenue limit, for growth in ADA since 1982-83. In recognition of this, SB 1537 states that the number of non-growth ADA for the newly reorganized school district (see Line C-1 of Schedule B) shall be reset to the ADA used in the blending calculation (i.e. the ADA two years prior to the effective date of the reorganization). Any growth in ADA since that year shall be funded at either the district’s own base revenue limit, or 105% of the statewide average base revenue limit for that type of district, whichever is less.

When only part of a district is affected by a reorganization, such as the case where part of a high school district unifies with one or more elementary districts, the non-growth ADA for the remainder of the district that did not reorganize is set equal to: (1) the 1982-83 non-growth ADA previously reported by that district; times, (2) the ratio of that district’s ADA not affected by the reorganization to the district’s total ADA, using the ADA for the year of the blending calculation.

### **Impact on Other Revenue Limit Adjustments**

In addition to the calculation of the new base revenue limit for a reorganized district, it is also necessary to recalculate some or all of the following other revenue limit components:

- The 1975-76 base year costs used to calculate the revenue limit adjustment for unemployment insurance (see Form K-12, Line E-15b);
- The amount per meal for the Meals for Needy Adjustment (see Schedule G, Line A);
- The 1983-84 base year level of mandated summer school hours and historic hourly rate for these hours (see Schedule P, Lines A and B); and,
- The base revenue limit and ADA cap for adult education (see Form S, Lines A and B).

The CDE reports that there are no definitive guidelines for calculating these factors, and that they may be established by local agreement as long as they are revenue neutral. For example, in

the case where only part of a high school or unified district is involved in a reorganization, and there is a need to divide the adult ADA cap between the newly reorganized district and the continuing district, that division may be made by local agreement as long as there is no net increase in the ADA caps.

In most cases, however, the calculation of these revenue limit components should be straightforward. For example, the new amounts for the 1975-76 base year unemployment insurance and the 1993-94 base year level of mandated summer school hours would simply be equal to the sum of the amounts for the component districts, if the reorganization involved whole districts. And, in the case where a reorganized district included only part of a component district, it would be appropriate to prorate the amount for the component district based upon the percentage of the ADA included in the reorganized district. For the amount per meal for the Meals for Needy adjustment, the historic hourly rate for mandated summer school, and the base revenue limit for an adult education program, it is necessary to compute the new amount using a blending (or weighted average) approach.

## **OTHER ISSUES**

### **Elementary Districts May Be Excluded from a Unification**

SB 1537 clarified that elementary districts may be excluded from a unification proposal. In the past, there have been several district unifications where elementary districts have been excluded from the newly unified districts, but these have all required special legislation. SB 1537 added Section 35542 to the Education Code which authorizes an elementary school district to be excluded from a new unification, if the governing board receives approval from the State Board of Education. If such approval is given, the elementary district may continue to feed into the coterminous high school under the same terms that existed before the unification.

### **Junior High School Transfers Limited to 105% of Average**

The transfer of seventh or eighth grade pupils between an elementary district and a high school district is a reorganization that triggers the recalculated base revenue limit discussed earlier in this chapter. However, state law also specifies the additional constraint that, when a seventh or eighth grade program is transferred, the receiving district shall not receive a revenue limit apportionment for those pupils in excess of 105% of the statewide average revenue limit for the type and size of the receiving district (ref. Education Code Section 35735.3).

### **If There Are No Suitable Facilities**

In prior years, several elementary districts have unified with a portion of a high school district that did not include a high school. Until a high school was built, the newly unified district contracted with a neighboring district—often the same high school district that it broke away from—for the education of its high school pupils. And even though the newly unified district continued to serve only the same elementary students it served before, its revenue limit was increased both under the blending calculation and the salary and benefit calculations.

SB 1537 clarifies that, if there are no suitable facilities for all students in a newly reorganized district, its base revenue limit shall only be adjusted by the blending calculation and it shall not initially receive the adjustments for salary and benefit differentials (ref. Education Code Section 35735.2). Then, as the district obtains its own facilities, the base revenue limit shall be increased for the salary and benefit adjustments, in proportion to the percentage of pupils it was originally unable to serve who are then being served.

Additionally, in the past, newly unified districts without suitable facilities that contracted with the neighboring district to serve its unhoused students had the option of claiming the interdistrict

ADA at its own base revenue limit—if higher than the other district’s base revenue limit—and then pay a tuition negotiated between the two districts. SB 1537 amended Education Code Section 46304 to now provide that such interdistrict ADA may only be claimed by the district of attendance for apportionment purposes. In this case, an interdistrict attendance agreement would need to be written by the affected districts.

If, after five years from the date of reorganization, the district is still unable to provide school facilities to educate all of its own students, the CDE shall annually report and recommend to the State Board of Education whether the district should be lapsed. The State Board of Education may then direct the county committee on school district organization to revert the reorganized district to its former status or to have it annexed to neighboring districts.

### **If a Previous Reorganization is Reversed**

In the late 1980s, several districts took advantage of what was then a loophole in the law and substantially increased their revenue limits through annexation or other forms of reorganization. Current law provides that, if a district reorganized on or before July 1, 1989 (for example, through the annexation of one district to another) and then split in a subsequent reorganization after July 1, 1989, so as to have territory that is “substantially the same” as before the original reorganization, then the revenue limit for that district will revert to the amount it would be if the initial reorganization and subsequent splitting never occurred (ref. Education Code Section 35735.1(d)).

### **No State Board Waivers Available**

SB 1537 stipulates that the calculation of the new base revenue limit for a reorganized school district is not subject to waiver either by the State Board of Education or by the Superintendent of Public Instruction (ref. Education Code Section 35735.1(h)).

## **COLLECTING SALARY, BENEFIT AND FTE DATA**

The body of this section discusses in detail the calculation of the salary and benefit adjustments for a newly reorganized district. Once the average cost for salaries and benefits per certificated FTE and per classified FTE have been determined, state law is very precise in how that data is to be used.

Curiously, state law is not nearly as precise in how to collect the data to determine these average costs per FTE, and numerous questions arise. For example, should costs for substitutes, overtime, coaching and other extra-duty pay, summer school stipends, retiree benefits, etc., be included? How should FTE be counted? And, should the data be for all funds or only for the General Fund?

Because neither state law nor state regulations give definitive answers, the material on this topic is offered by the author as reasonable guidelines for determining both total costs and total FTE. It should be recognized, however, that differences of opinion exist. Since state law gives the county superintendent of schools the responsibility for calculating the salary and benefit adjustments, interested parties should definitely discuss the details of the data collection process with their county superintendent of schools office.

### **Determining Total Costs**

In the opinion of the author, SB 1537 clarified the cost part of the data collection by stipulating that the “amount of all salaries and benefits for certificated [or classified] employees of the district, including both part-time and full-time employees” is to be included (ref. Education Code

Section 35735.1, emphasis added). But while all costs are to be included, it is often difficult to separate certificated costs from classified costs.

While salaries paid to certificated and to classified staff are clearly separated on the state's J-201 budget reporting documents, there is no clear separation on these forms between the benefits paid for a certificated versus classified staff. Instead, the separation is between instructional and non-instructional staff.<sup>3</sup> As a result of the data being reported in this way, the benefits for instructional staff include not only teachers but also instructional aides, while those reported for non-instructional staff include not only other classified employees, but also certificated administrators.

Thus, it is necessary to use other documents to separate total benefit expenditures for certificated staff from that for classified staff, and this means that it will often be necessary to determine this data on an employee by employee basis.

### **Determining FTE**

While state law has clarified that total costs for salaries and benefits are to be included, state law provides no definitive rules for determining FTE.

Since total expenditures are based upon the amount actually paid over the course of a whole fiscal year, it would be appropriate to determine the number of FTE using an annualized average for the fiscal year. The FTE count should not include daily substitutes but should include long-term substitutes so as to count total FTE used without double counting both the absent employee and the substitute.

If it is possible to determine the annualized number of FTE, after taking into account late hire dates and vacancy days, that would be ideal. As a practical matter, however, it is often very difficult to determine an annualized average FTE level because of fluctuating number of employees due to differing hire dates, vacancies, etc. In the past, districts that have been simply unable to determine an annualized average number of FTE have used a "snapshot," such as the FTE for the March payroll or the FTE reported for the CDEDS information day.

STRS and PERS reports showing a given year's service credit should not be used to determine FTE counts for several reasons. First, one employee may represent more than 1.00 FTE, such [as] an employee working in a year-round school who is on an extended contract. By contrast, the report of annual service credit would show a maximum of 1.00 FTE per employee. Second, some part-time classified employees may not be members of PERS and so would not be in the PERS report.

For classified employees, the number of FTE usually involves a mixture of 10-month, 11-month and 12-month employees as well as some 6-hour/7-hour/8-hour employees. There is no need to convert all employees to 8-hour/12-month equivalents. Rather, whatever a district itself considers to be a full-time equivalent position—for example, a 6-hour/10-month position for an instructional aide and an 8-hour/12-month position for a central office clerk—is used in determining the number of FTEs.

Other local issues may arise. For example, some districts internally count additional FTE for coaching or extra-duty stipends, whereas other districts do not. Perhaps the most important rule in determining average costs per FTE is that the data for all districts involved in the reorganization should be collected in a uniform manner.

(Note: This concludes the material quoted from Paul Goldfinger's *Revenues and Limits: A Guide to School Finance in California*.)

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<sup>3</sup> This distinction is made in order to check whether a district has expended the minimum percentage of current expense of education for the salaries and benefits of instructional staff—classroom teachers and instructional aides—as required by Education Code Section 41372.

## **E. Completion and Effective Dates**

### **1. Completion of Reorganization Action**

A reorganization action is complete when the board of supervisors, upon receiving proper evidence that such action was approved as provided by law, makes an order to create, change, or terminate the appropriate school boundaries. (EC 35530, 35765) Education Code sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those counties where such action has resulted in the responsibilities for school district organization being transferred to the county board of education, making the order to create, change, or terminate the appropriate school boundaries may be the responsibility of the county office of education.

### **2. Effective Date of Change**

Changes shall be effective upon the date when all the following are completed (EC 35532):

- a. Determination of the assessed valuation of any district(s) affected by the action
- b. Appointment or election of members of the governing board
- c. Preparation and submission of the school district budgets
- d. Election or appointment of an executive officer and other employees required to service the immediate needs of the district
- e. Election or appointment of employees for the ensuing school year
- f. Calling and conducting of any elections authorized by law relative to the financing of the district, including bonded indebtedness tax rates and State School Building Fund
- g. Expenditure of funds available to the district
- h. Exercise by the governing board of the school district of other powers and duties vested in governing boards of the districts of the same type of class and not inconsistent with other provisions of this code
- i. Receipt and expenditure of funds transferred pursuant to Education Code Section 42623
- j. Issuing and selling of bonds

The reorganization shall be effective for all purposes on July 1 of the calendar year following the calendar year in which the board of supervisors ordered the action. (EC 35534)

3. Continuation of Existing Governing Board

In a district that has been wholly absorbed, the governing board will continue to function and have all powers and duties until the action is effective for all purposes. (EC 35533)

4. Powers of a New Governing Board to Secure Options

A newly created governing board may secure options to purchase land and issue bonds as soon as it has been appointed or elected and the respective districts have been named. (EC 35536)



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